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December 8, 2009

VIA E-MAIL (thomas.street@noaa.gov)

Mr. Thomas Street, Esq.
NOAA Office of General Counsel
For Ocean Services
Washington, DC 20230

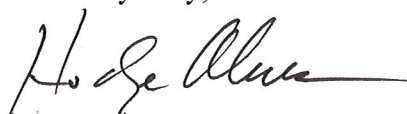
Re: Consistency Appeal of Chicago Deer River Properties, LLC, d/b/a
Theodore Industrial Port

Dear Mr. Street:

In follow up to our conference call this afternoon along with counsel from ADEM, I submit to you herewith my client Chicago Deer River Properties' motion for an extension of the briefing schedule set pursuant to Mr. Joel La Bissonniere's letter dated November 30, 2009. I understand from our conference call that my e-mailing this motion to you is sufficient filing of the motion with NOAA and the Secretary of Commerce, but, if additional filing is required, please provide me with appropriate instructions for that additional filing.

We appreciate NOAA and the Secretary's consideration of this motion.

Yours very truly,



J. Hodge Alves, III
For the Firm

JHA/lob
Attachment

Cc: Paul Christen Sasser, Jr., Esq. (via e-mail)
pcsasser@adem.state.al.us

S. Shawn Sibley, Esq. (via e-mail)
ssibley@adem.state.al.us

CHICAGO DEER RIVER PROPERTIES,)
 LLC,)
)
 Appellant,)
)
 vs.)
)
 STATE OF ALABAMA DEPARTMENT)
 OF ENVIRONMENTAL MANAGEMENT,)
)
 Respondent.)

CASE NO. _____

Comes now Chicago Deer River Properties, LLC, Appellant, and respectfully moves that the briefing schedule set forth in the attached order dated November 30, 2009, from the United States Department of Commerce, National Oceanic and Atmospheric Administration Office of General Counsel, be extended for a period of sixty (60) days as to each scheduled date and to provide for the following amended schedule:

No later than 20 days after receipt of the Respondent's brief, the Appellant may file a reply brief, accompanied by any supplemental appendix, if required.

1. Appellant requests the extension of the briefing scheduling in order to allow time for Appellant and ADEM to discuss alternatives, settlement and resolution of Appellant's appeal

and ADEM's objection to Appellant's coastal consistency certification for Appellant's subject project.

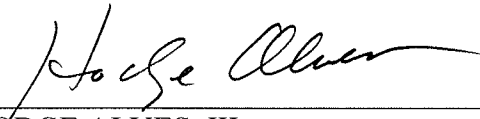
2. On December 8, 2009, counsel for ADEM advised Appellant and NOAA's Office of the General Counsel for Ocean Services that the State of Alabama does not take a position with respect to Appellant's Motion.

3. Appellant has filed a Supplemental Alternatives Analysis of other sites and submitted the Analysis to ADEM for its review.

4. Appellant has also appealed the objection made by ADEM to the Environmental Management Commission pursuant to State Administrative Regulations, ADEM Admin. Code R. 335-2-1, et seq., and, in that State appeal, the parties have jointly filed a motion to waive the time requirements for a hearing in order to discuss alternatives, settlement and resolution and said motion has been granted.

5. Appellant and ADEM are reviewing and discussing the alternatives, resolution and possible settlement of the objection and issues raised, which, if successful, will obviate the cost and expense of this appeal for all concerned.

Respectfully submitted,



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*Attorneys for Appellant,
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CERTIFICATE OF SERVICE

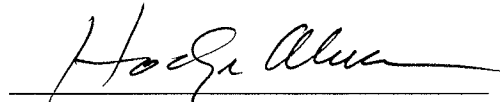
I hereby certify that I have on December 8, 2009, served a true and correct copy of the
aforementioned on the following via e-mail:

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Respectfully submitted:



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Chicago Deer River Properties, LLC



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

VIA ELECTRONIC AND U.S. MAIL

NOV 30 2009

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Re: Consistency Appeal of Chicago Deer River Properties, LLC, d/b/a Theodore Industrial Port

Dear Mr. Alves, Mr. Glenn, and Ms. Rowell:

On November 25, 2009, Chicago Deer River Properties, LLC, d/b/a Theodore Industrial Port (hereinafter the Appellant) filed an appeal with the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA). The Appellant appeals an objection by the State of Alabama regarding a proposed port project at the Theodore Industrial Port in Theodore, Alabama.

The Secretary is responsible for deciding appeals filed under the CZMA. NOAA's Office of the General Counsel assists the Secretary in carrying out this responsibility and has been delegated certain responsibilities associated with processing consistency appeals, including establishing briefing schedules and requiring the submission of briefs and supporting materials on procedural issues.

The following briefing schedule will govern this appeal:

On or before January 6, 2010, the Appellant shall file its principal brief and appendix.



On or before February 16, 2010, the State of Alabama shall file its principal brief, accompanied by any supplemental appendix, if required.

No later than 20 days after receipt of the Respondent's brief, the Appellant may file a reply brief, accompanied by any supplemental appendix, if required.

In addition to substantive arguments surrounding the merits of the appeal, the parties should address the Appellant's allegation that the State's objection was invalid under 15 C.F.R. § 930.129(b), as well as the Appellant's arguments that the Alabama Department of Environmental Management's objections were procedurally deficient.

The deadlines listed above will not be continued absent compelling reasons. At the conclusion of this schedule, this office will, to the extent necessary, identify any additional information required to rule on the appeal. The parties are directed to the briefing and filing requirements contained in regulations published at 15 CFR § 930.127. The parties are advised that all submissions must be served on the opposing party, as required by 15 C.F.R. § 930.127. The parties are also reminded that federal law and regulations govern the merits of this appeal, and that all factual citations are to be made to the record as developed by the parties. The parties may examine past Secretarial consistency appeal decisions at <http://www.ogc.doc.gov/czma.htm>.

Questions should be directed in writing to Thomas Street, NOAA Office of the General Counsel for Ocean Services, at thomas.street@noaa.gov, with a copy to the opposing party.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
NOAA Office of the General
Counsel for Ocean Services